

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

19851—19900

[Approved by the Secretary of Agriculture, Washington, D. C., April 14, 1933]

19851. Adulteration and misbranding of fluidextract of ergot. U. S. v. 5 Bottles of F. E. Ergot, et al. Default decree of condemnation and destruction. (F. & D. No. 26194. I. S. Nos. 28709, 16210. S. No. 4475.)

This action involved the interstate shipment of two lots of fluidextract of ergot. One lot of the article, which was represented as meeting the requirements of the United States Pharmacopoeia, was found upon examination to have a potency of one-half of that required by the pharmacopoeia. The remaining lot had a potency of about two-thirds of that required by the said pharmacopoeia.

On April 8, 1931, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the district aforesaid holding a District Court, a libel praying seizure and condemnation of certain drugs remaining unsold at Washington, D. C. It was alleged in the libel that seven bottles of a product, invoiced as "F. E. Ergot U.S.P.X.", and one gallon bottle of an article, labeled "Fluidextract Ergot," had been shipped by Sharp & Dohme (Inc.), into the District of Columbia, the former on or about January 12, 1931, from Baltimore, Md., and the latter on or about March 14, 1931, from Philadelphia, Pa., and that the article was adulterated and misbranded in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that it was sold under a name recognized in the United States Pharmacopoeia, to wit, "F. E. Ergot U.S.P.X." or "Fluid Extract Ergot" (fluidextract of ergot), and different from the standard of strength as determined by the tests laid down in the said pharmacopoeia, since the former was only one-half the potency required by the said pharmacopoeia for fluidextract of ergot and the latter was only two-thirds the potency required by said pharmacopoeia.

Misbranding was alleged for the further reason that the article was offered for sale under the name of another article. Misbranding of the portion of the article shipped March 14, 1931, was alleged for the further reason that the statement in the labeling, "Fluidextract Ergot U. S. P. X. * * * Biologically Standardized," was false and misleading when applied to an article having a potency of only two-thirds that required by the United States Pharmacopoeia for fluidextract of ergot.

On September 19, 1932, no claimant having appeared for the property, judgment of condemnation was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

19852. Adulteration and misbranding of fluidextract of ergot. U. S. v. 5 Bottles of "F. E. Ergot," et al. Default decree of condemnation and destruction. (F. & D. No. 26194. I. S. Nos. 16209, 28708. S. No. 4475.)

This action involved the interstate shipment of a quantity of fluidextract of ergot. Examination of the article showed that it had a potency of approximately one-half of that required by the United States Pharmacopoeia for fluidextract of ergot.

On April 8, 1931, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the Supreme Court of the district aforesaid, holding a District Court, a libel praying seizure and condemnation of certain drugs remaining unsold at Washington, D. C. It was alleged in the libel that five bottles of a drug, invoiced as "F. E. Ergot," had been shipped on or about February 4, 1931, from Philadelphia, Pa., by E. R. Squibb & Sons, into the District of Columbia, and that the article was adulterated and misbranded in violation of the food and drugs act.

Adulteration of the article was alleged in the libel for the reason that it was sold under a name recognized in the United States Pharmacopoeia, to wit, "F. E. Ergot [fluidextract of ergot]," and differed from the standard of strength as determined by the test laid down in the said pharmacopoeia, in that it had only one-half the potency required by said pharmacopoeia for fluidextract of ergot.

Misbranding was alleged for the reason that the article was an imitation of and was offered for sale under the name of another article.

On September 19, 1932, no claimant having appeared for the property, judgment of condemnation was entered and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*

19853. Misbranding of La Mercey mineral water. U. S. v. 276 Bottles, et al., of La Mercey Mineral Water. Default decrees of condemnation, forfeiture, and destruction. (1578-A, 1579-A. F. & D. Nos. 28723, 28724.)

Examination of a drug product, known as La Mercey mineral water, disclosed that the article contained no ingredients or combination of ingredients capable of producing certain curative and therapeutic effects claimed on the bottle label and in a circular shipped with the article.

On or about August 26, 1932, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 348 bottles of the said La Mercey mineral water, remaining in the original unbroken packages at Portland, Oreg., alleging that the article had been shipped by the La Mercey Sales Corporation (Ltd.) in part from Dos Palos, Calif., on or about March 16, 1931, and in part from San Francisco, Calif., on or about May 28, 1931, by the La Mercey Co. (Inc.) and had been transported from the State of California into the State of Oregon, and charging misbranding in violation of the food and drugs act as amended.

Analysis by this department of a sample of the article showed that it contained 0.24 per cent of dissolved mineral matter, chiefly sodium chloride.

It was alleged in the libels that the article was misbranded in that the following statements appearing in the labeling, regarding the curative or therapeutic effects of the said article, were false and fraudulent, since it contained no ingredient or combination of ingredients capable of producing the effects claimed: (Bottle) "Directions Four bottles La Mercey should be taken monthly. One bottle (four glasses) daily for four days before expected period. Repeat monthly for four consecutive months. La Mercey may be required for a longer period. The use of La Mercey for the full four months is recommended, although beneficial results may follow the first month's use. Should period commence earlier than expected, continue the use of La Mercey until the entire four bottle treatment has been taken. Periods may normally be somewhat delayed. In such case continue the use of La Mercey only until the four bottle treatment has been taken. * * * Four bottles are absolutely necessary each period for best results;" (blue circular) "* * * patients suffering from menstrual and menopause distress. * * * will cure dysmenorrhea usually in four months. Obstinate cases may require that the treatment be continued for six or seven months. Where women inquire for drugs known to be useful in the temporary relief of dysmenorrhea suggest to them that they switch to La Mercey Water as it is the only product known to science that will correct menstrual difficulties which cause pain. La Mercey Sales Corp. stands behind La Mercey Water and guarantees results provided the water is administered as directed."

On October 4, 1932, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

HENRY A. WALLACE, *Secretary of Agriculture.*